

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2759**

**Introduced by Assembly Member Jones**

(Principal coauthor: Senator Steinberg)

**(Coauthor: ~~Assembly Member Nunez~~ Coauthors: Assembly Members  
Huffman and Nunez)**

February 22, 2008

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An act relating to state preschool programs to amend Sections 8208, 8235, 8236, 8237, 8238, 8238.1, 8238.3, 8238.5, 8240, 8250.5, 8264.5, and 8266.1 of, to amend the heading of Article 7 (commencing with Section 8235) of Chapter 2 of Part 6 of Division 1 of Title 1 of, to amend the heading of Title 8 (commencing with Section 8240) of Chapter 2 of Part 6 of Division 1 of Title 1 of, to add Section 8236.1 to, and to repeal and add Sections 8238.4, 8239, and 8244 of, the Education Code, relating to child care and development services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2759, as amended, Jones. State preschool programs: reform.

**Existing**

(1) *Existing* law requires the Superintendent of Public Instruction to administer state preschool programs, including part-day and preschool appropriate programs for prekindergarten children 3 to 5 years of age, inclusive, in educational development, health services, social services, nutritional services, parent education and participation, evaluation, and staff development.

This bill would express the Legislature's intent to enact legislation to reform state preschool programs by consolidating and streamlining child development programs that serve children 3 to 5 years of age,

~~inclusive~~ recast those provisions as California state preschool programs. The bill would recast the general child care and development programs as the center child care and development programs and would include full-day programs within these provisions. The bill would specify that the California state preschool program is available to three-year-old and four-year-old children, as defined.

(2) Existing law establishes as schedule for expenditure of prescribed funds appropriated pursuant to the Budget Act of 2006, for child development in preschool programs.

This bill would repeal that provision.

(3) Existing law requires the Superintendent and the department to administer prekindergarten and family literacy programs in accordance with specified funding and other requirements.

This bill would revise those requirements and would provide for the allocation of funds upon appropriation in the annual Budget Act or another statute. The bill would authorize the Superintendent to transfer funds appropriated on and after January 1, 2009, between center child care and development programs and the California state preschool program.

(4) Existing law establishes an enrollment priority for state preschool program services.

This bill would revise the enrollment priority.

(5) Existing law requires certain entities operating child care and development programs to employ a program director, and authorizes the Superintendent to waive the qualifications for the program director under specified circumstances.

This bill would recast those provisions and would delete the director qualification waiver provisions.

(6) Existing law establishes reimbursement rates for child care and development program providers and requires the Superintendent to establish a fee schedule for families utilizing child care services under these provisions.

This bill would revise those reimbursement rates for California state preschool program providers and would require fees to be assessed and collected for families with children in full-day preschool programs pursuant to the fee schedule provisions.

(7) The bill would become operative on July 1, 2009, and only if SB 1629 of the 2007–08 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 2009.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Learning begins at the earliest stages of life and research  
4 shows that preschool is a proven investment in children's academic  
5 success and their success later in life. A high-quality preschool  
6 system would benefit California children, the state's systems of  
7 public and higher education, its families and students, and its  
8 economy overall.

9 (b) Effective preschool provides eager young learners with early  
10 academic and social skills that prepare them for later learning.  
11 Developing these skills requires developmentally appropriate,  
12 intentional instruction from skilled teachers.

13 (c) Unfortunately, too many children are turned away from  
14 preschool, and the children who lack access to preschool are  
15 disproportionately children of color, children whose home language  
16 is not English, and children whose parents did not graduate from  
17 high school. Research has shown that only one-half of all eligible  
18 children in California are enrolled in a state preschool or the federal  
19 Head Start Program.

20 (d) Currently, California's preschool programs consist of both  
21 state and federally funded programs for the provision of part-day  
22 and full-day preschool and child care.

23 (e) According to the National Institute of Early Education  
24 Research, California's state preschool programs meet only four of  
25 10 benchmarks for quality preschool. A vast body of research  
26 shows that only high-quality preschool results in the child outcomes  
27 and cost-benefits widely attributed to preschool.

28 (f) The myriad of state child development programs that serve  
29 children 3 to 5 years of age, inclusive, are unnecessarily complex;  
30 programs are not rewarded or given enough support to achieve the  
31 high-quality learning environments that our most disadvantaged  
32 children need and deserve.

33 (g) In order to take full advantage of the integral role that a  
34 quality preschool system plays in helping prepare children for  
35 school, which would benefit the state's most vulnerable pupils and

1 children from low-income families, including English language  
2 learners, California must create a more coherent and efficient  
3 publicly funded preschool program and lay the groundwork for  
4 high quality. Consolidating and streamlining the state's preschool  
5 program within existing revenues and expenditures and creating  
6 a system that rewards programs that provide higher quality learning  
7 environments would greatly increase California's ability to bridge  
8 the achievement gap.

9 (h) Making the necessary investments to expand the state's  
10 preschool system while the state faces a budget shortfall will be  
11 difficult, but important steps can be taken now to put in place the  
12 framework for a high-quality prekindergarten system upon which  
13 future expansion can be built.

14 ~~SEC. 2. It is the intent of the Legislature to enact legislation~~  
15 ~~that would reform existing state preschool programs by~~  
16 ~~consolidating and streamlining existing child development~~  
17 ~~programs that serve children 3 to 5 years of age, inclusive.~~

18 *SEC. 2. Section 8208 of the Education Code is amended to*  
19 *read:*

20 8208. As used in this chapter:

21 (a) "Alternative payments" includes payments that are made by  
22 one child care agency to another agency or child care provider for  
23 the provision of child care and development services, and payments  
24 that are made by an agency to a parent for the parent's purchase  
25 of child care and development services.

26 (b) "Alternative payment program" means a local government  
27 agency or nonprofit organization that has contracted with the  
28 department pursuant to Section 8220.2 to provide alternative  
29 payments and to provide support services to parents and providers.

30 (c) "Applicant or contracting agency" means a school district,  
31 community college district, college or university, county  
32 superintendent of schools, county, city, public agency, private  
33 nontax-exempt agency, private tax-exempt agency, or other entity  
34 that is authorized to establish, maintain, or operate services  
35 pursuant to this chapter. Private agencies and parent cooperatives,  
36 duly licensed by law, shall receive the same consideration as any  
37 other authorized entity with no loss of parental decisionmaking  
38 prerogatives as consistent with the provisions of this chapter.

39 (d) "Assigned reimbursement rate" is that rate established by  
40 the contract with the agency and is derived by dividing the total

1 dollar amount of the contract by the minimum child day of average  
2 daily enrollment level of service required.

3 (e) “Attendance” means the number of children present at a  
4 child care and development facility. “Attendance,” for the purposes  
5 of reimbursement, includes excused absences by children because  
6 of illness, quarantine, illness or quarantine of their parent, family  
7 emergency, or to spend time with a parent or other relative as  
8 required by a court of law or that is clearly in the best interest of  
9 the child.

10 (f) “Capital outlay” means the amount paid for the renovation  
11 and repair of child care and development facilities to comply with  
12 state and local health and safety standards, and the amount paid  
13 for the state purchase of relocatable child care and development  
14 facilities for lease to qualifying contracting agencies.

15 (g) “Caregiver” means a person who provides direct care,  
16 supervision, and guidance to children in a child care and  
17 development facility.

18 (h) “Child care and development facility” means any residence  
19 or building or part thereof in which child care and development  
20 services are provided.

21 (i) “Child care and development programs” means those  
22 programs that offer a full range of services for children from  
23 infancy to 13 years of age for any part of a day, by a public or  
24 private agency, in centers and family child care homes. These  
25 programs include, but are not limited to, all of the following:

26 (1) ~~Campus-Center~~ child care and development.

27 (2) ~~General child care and development.~~

28 (3)

29 (2) Migrant child care and development.

30 (4)

31 (3) Child care provided by the California School Age Families  
32 Education Program (Article 7.1 (commencing with Section 54740)  
33 of Chapter 9 of Part 29).

34 (5) ~~State~~

35 (4) *California state preschool program.*

36 (6)

37 (5) Resource and referral.

38 (7)

39 (6) Child care and development services for children with ~~special~~  
40 *exceptional* needs.

- 1     ~~(8)~~  
2     (7) Family child care home education network.  
3     ~~(9)~~  
4     (8) Alternative payment.  
5     ~~(10) Child abuse protection and prevention services.~~  
6     ~~(11)~~

7     (9) Schoolage community child care.

8     (j) “Child care and development services” means those services  
9     designed to meet a wide variety of needs of children and their  
10    families, while their parents or guardians are working, in training,  
11    seeking employment, incapacitated, or in need of respite. These  
12    services may include direct care and supervision, instructional  
13    activities, resource and referral programs, and alternative payment  
14    arrangements.

15    (k) “Children at risk of abuse, neglect, or exploitation” means  
16    children who are so identified in a written referral from a legal,  
17    medical, or social service agency, or emergency shelter.

18    (l) “Children with exceptional needs” means either of the  
19    following:

20    (1) Infants and toddlers under three years of age who have been  
21    determined to be eligible for early intervention services pursuant  
22    to the California Early Intervention Services Act (Title 14  
23    (commencing with Section 95000) of the Government Code) and  
24    its implementing regulations. These children include an infant or  
25    toddler with a developmental delay or established risk condition,  
26    or who is at high risk of having a substantial developmental  
27    disability, as defined in subdivision (a) of Section 95014 of the  
28    Government Code. These children shall have active individualized  
29    family service plans, shall be receiving early intervention services,  
30    and shall be children who require the special attention of adults in  
31    a child care setting.

32    (2) Children ages 3 to 21 years, inclusive, who have been  
33    determined to be eligible for special education and related services  
34    by an individualized education program team according to the  
35    special education requirements contained in Part 30 (commencing  
36    with Section 56000), and who meet eligibility criteria described  
37    in Section 56026 and Sections 56333 to 56338, inclusive, and  
38    Sections 3030 and 3031 of Title 5 of the California Code of  
39    Regulations. These children shall have an active individualized  
40    education program, shall be receiving early intervention services

1 or appropriate special education and related services, and shall be  
2 children who require the special attention of adults in a child care  
3 setting. These children include children with mental retardation,  
4 hearing impairments (including deafness), speech or language  
5 impairments, visual impairments (including blindness), serious  
6 emotional disturbance (also referred to as emotional disturbance),  
7 orthopedic impairments, autism, traumatic brain injury, other health  
8 impairments, or specific learning disabilities, who need special  
9 education and related services consistent with paragraph (A) of  
10 subsection (3) of Section 1401 of Title 20 of the United States  
11 Code.

12 (m) "Closedown costs" means reimbursements for all approved  
13 activities associated with the closing of operations at the end of  
14 each growing season for migrant child development programs  
15 only.

16 (n) "Cost" includes, but is not limited to, expenditures that are  
17 related to the operation of child care and development programs.  
18 "Cost" may include a reasonable amount for state and local  
19 contributions to employee benefits, including approved retirement  
20 programs, agency administration, and any other reasonable program  
21 operational costs. "Cost" may also include amounts for licensable  
22 facilities in the community served by the program, including lease  
23 payments or depreciation, downpayments, and payments of  
24 principal and interest on loans incurred to acquire, rehabilitate, or  
25 construct licensable facilities, but these costs shall not exceed fair  
26 market rents existing in the community in which the facility is  
27 located. "Reasonable and necessary costs" are costs that, in nature  
28 and amount, do not exceed what an ordinary prudent person would  
29 incur in the conduct of a competitive business.

30 (o) "Elementary school," as contained in Section 425 of Title  
31 20 of the United States Code (the National Defense Education Act  
32 of 1958, Public Law 85-864, as amended), includes early childhood  
33 education programs and all child development programs, for the  
34 purpose of the cancellation provisions of loans to students in  
35 institutions of higher learning.

36 (p) "Family child care home education network" means an entity  
37 organized under law that contracts with the department pursuant  
38 to Section 8245 to make payments to licensed family child care  
39 home providers and to provide educational and support services  
40 to those providers and to children and families eligible for

1 state-subsidized child care and development services. A family  
2 child care home education network may also be referred to as a  
3 family child care home system.

4 (q) “Health services” include, but are not limited to, all of the  
5 following:

6 (1) Referral, whenever possible, to appropriate health care  
7 providers able to provide continuity of medical care.

8 (2) Health screening and health treatment, including a full range  
9 of immunization recorded on the appropriate state immunization  
10 form to the extent provided by the Medi-Cal Act (Chapter 7  
11 (commencing with Section 14000) of Part 3 of Division 9 of the  
12 Welfare and Institutions Code) and the Child Health and Disability  
13 Prevention Program (Article 6 (commencing with Section 124025)  
14 of Chapter 3 of Part 2 of Division 106 of the Health and Safety  
15 Code), but only to the extent that ongoing care cannot be obtained  
16 utilizing community resources.

17 (3) Health education and training for children, parents, staff,  
18 and providers.

19 (4) Followup treatment through referral to appropriate health  
20 care agencies or individual health care professionals.

21 (r) “Higher educational institutions” means the Regents of the  
22 University of California, the Trustees of the California State  
23 University, the Board of Governors of the California Community  
24 Colleges, and the governing bodies of any accredited private  
25 nonprofit institution of postsecondary education.

26 (s) “Intergenerational staff” means persons of various  
27 generations.

28 (t) “Limited-English-speaking-proficient and  
29 non-English-speaking-proficient children” means children who  
30 are unable to benefit fully from an English-only child care and  
31 development program as a result of either of the following:

32 (1) Having used a language other than English when they first  
33 began to speak.

34 (2) Having a language other than English predominantly or  
35 exclusively spoken at home.

36 (u) “Parent” means a biological parent, stepparent, adoptive  
37 parent, foster parent, caretaker relative, or any other adult living  
38 with a child who has responsibility for the care and welfare of the  
39 child.



1 (v) "Program director" means a person who, pursuant to Sections  
2 8244 and 8360.1, is qualified to serve as a program director.

3 (w) "Proprietary child care agency" means an organization or  
4 facility providing child care, which is operated for profit.

5 (x) "Resource and referral programs" means programs that  
6 provide information to parents, including referrals and coordination  
7 of community resources for parents and public or private providers  
8 of care. Services frequently include, but are not limited to: technical  
9 assistance for providers, toy-lending libraries, equipment-lending  
10 libraries, toy- and equipment-lending libraries, staff development  
11 programs, health and nutrition education, and referrals to social  
12 services.

13 (y) "Severely disabled children" are children with exceptional  
14 needs from birth to 21 years of age, inclusive, who require intensive  
15 instruction and training in programs serving pupils with the  
16 following profound disabilities: autism, blindness, deafness, severe  
17 orthopedic impairments, serious emotional disturbances, or severe  
18 mental retardation. "Severely disabled children" also include those  
19 individuals who would have been eligible for enrollment in a  
20 developmental center for handicapped pupils under Chapter 6  
21 (commencing with Section 56800) of Part 30 as it read on January  
22 1, 1980.

23 (z) "Short-term respite child care" means child care service to  
24 assist families whose children have been identified through written  
25 referral from a legal, medical, or social service agency, or  
26 emergency shelter as being neglected, abused, exploited, or  
27 homeless, or at risk of being neglected, abused, exploited, or  
28 homeless. Child care is provided for less than 24 hours per day in  
29 child care centers, treatment centers for abusive parents, family  
30 child care homes, or in the child's own home.

31 (aa) (1) "Site supervisor" means a person who, regardless of  
32 his or her title, has operational program responsibility for a child  
33 care and development program at a single site. A site supervisor  
34 shall hold a permit issued by the Commission on Teacher  
35 Credentialing that authorizes supervision of a child care and  
36 development program operating in a single site. The Superintendent  
37 may waive the requirements of this subdivision if the  
38 superintendent determines that the existence of compelling need  
39 is appropriately documented.

(2) ~~In respect to~~ *For California* state preschool programs, a site supervisor may qualify under any of the provisions in this subdivision, or may qualify by holding an administrative credential or an administrative services credential. A person who meets the qualifications of a site supervisor under both Section 8244 and subdivision (e) of Section 8360.1 is also qualified under this subdivision.

(ab) “Standard reimbursement rate” means that rate established by the Superintendent pursuant to Section 8265.

(ac) “Startup costs” means those expenses an agency incurs in the process of opening a new or additional facility prior to the full enrollment of children.

(ad) ~~“State—~~“*California state preschool—services” program*” means part-day *and full-day* educational programs for low-income or otherwise disadvantaged ~~—prekindergarten-age three- and four-year-old~~ children.

(ae) “Support services” means those services that, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.

(af) “Teacher” means a person with the appropriate permit issued by the Commission on Teacher Credentialing who provides program supervision and instruction that includes supervision of a number of aides, volunteers, and groups of children.

(ag) “Underserved area” means a county or subcounty area, including, but not limited to, school districts, census tracts, or ZIP Code areas, where the ratio of publicly subsidized child care and development program services to the need for these services is low, as determined by the Superintendent.

(ah) “Workday” means the time that the parent requires temporary care for a child for any of the following reasons:

(1) To undertake training in preparation for a job.

(2) To undertake or retain a job.

(3) To undertake other activities that are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.

1     (ai) “Three-year-old children” means children who will have  
2     their third birthday on or before December 2 of the fiscal year in  
3     which they are enrolled in a California state preschool program.

4     (aj) “Four-year-old children” means children who will have  
5     their fourth birthday on or before December 2 of the fiscal year  
6     in which they are enrolled in a California state preschool program.

7     (ak) “Interactive literacy activities” means activities in which  
8     parents or guardians actively participate in facilitating the  
9     acquisition by their children of prereading skills through guided  
10    activities such as shared reading, learning the alphabet, and basic  
11    vocabulary development.

12    (al) “Local educational agency” means a school district, a  
13    county office of education, a community college district, or a school  
14    district on behalf of one or more schools within the school district.

15    SEC. 3. The heading of Article 7 (commencing with Section  
16    8235) of Chapter 2 of Part 6 of Division 1 of Title 1 of the  
17    Education Code is amended to read:

18  
19           Article 7. California State Preschool Programs  
20

21    SEC. 4. Section 8235 of the Education Code is amended to  
22    read:

23       8235. (a) The Superintendent of Public Instruction shall  
24       administer all California state preschool programs in accordance  
25       with the funding priorities set forth in Section 8236. Those  
26       programs shall include, but not be limited to, part-day and full-day  
27       preschool appropriate programs for ~~prekindergarten~~ three- and  
28       four-year old children ~~three to five years of age~~ in educational  
29       development, health services, social services, nutritional services,  
30       parent education and parent participation, evaluation, and staff  
31       development. Preschool programs for which federal reimbursement  
32       is not available shall be funded as prescribed by the Legislature  
33       in the Budget Act, and unless otherwise specified by the  
34       Legislature, shall not utilize federal funds made available through  
35       Title XX of the Social Security Act (42 U.S.C. Sec. 1397).

36       ~~(b) Federal Headstart funds used to provide services to families~~  
37       ~~receiving state preschool services shall be deemed nonrestricted~~  
38       ~~funds.~~

39       (b) Three- and four-year-old children are eligible for the  
40       part-day California state preschool program if the family meets

1 at least one of the criteria specified in paragraph (1) of subdivision  
2 (a) of Section 8263.

3 (c) Notwithstanding any other provision of law, a part-day  
4 California state preschool program may provide services to  
5 children in families above the income eligibility threshold, as  
6 described in Sections 8263 and 8263.1, after all eligible three-  
7 and four-year-old children have been enrolled. No more than 10  
8 percent of children enrolled, calculated throughout the  
9 participating program's entire contract, may be filled by children  
10 in families above the income eligibility threshold.

11 (d) Three- and four-year-old children are eligible for full-day  
12 California state preschool program services if the family meets at  
13 least one of the criteria specified in paragraph (1) of subdivision  
14 (a) of Section 8263, and the parents meet at least one of the criteria  
15 specified in paragraph (2) of subdivision (a) of Section 8263.

16 (e)  
17 (e) Priority for receiving state preschool services shall be given  
18 to low-income families who meet the eligibility standards as  
19 established by the Superintendent of Public Instruction, in  
20 accordance with the priorities set forth in Section 8236.

21 (f)  
22 (f) Reimbursement for state preschool programs shall be on a  
23 per capita basis, as determined by the Superintendent of Public  
24 Instruction.

25 (g)  
26 (g) Any agency described in subdivision (c) of Section 8208 as  
27 an "applicant or contracting agency" is eligible to contract to  
28 operate a California state preschool program.

29 SEC. 5. Section 8236 of the Education Code is amended to  
30 read:

31 8236. (a) For purposes of this section, the following definitions  
32 apply:

33 (1) "Eligible children" means children who are currently eligible  
34 for the state preschool program.

35 (2) "Four-year-old children" means those children who will  
36 have their fourth birthday on or before December 2 of the fiscal  
37 year in which they are enrolled in a state preschool program.

38 (3) "Local educational agency" means a school district, a county  
39 office of education, a community college district, or a school  
40 district on behalf of one or more schools within the school district.

1 ~~(4) “Superintendent” means the Superintendent of Public~~  
2 ~~Instruction.~~

3 ~~(5) “Three-year-old children” means those children who will~~  
4 ~~have their third birthday on or before December 2 of the fiscal~~  
5 ~~year in which they are enrolled in a state preschool program.~~

6 ~~(b)~~

7 8236. (a) (1) Each applicant or contracting agency funded  
8 pursuant to Section 8235 shall give first priority to *three- or*  
9 *four-year-old* neglected or abused children who are recipients of  
10 child protective services, or ~~recipients~~ who are at risk of being  
11 neglected ~~or~~, abused, *or exploited* upon written referral from a  
12 legal, medical, or social service agency. If an agency is unable to  
13 enroll a child in this first priority category, the agency shall refer  
14 the child’s parent or guardian to local resource and referral services  
15 so that services for the child can be located.

16 (2) ~~After Notwithstanding Section 8263, after~~ children in the  
17 first priority category set forth in paragraph (1) are ~~served~~ *enrolled*,  
18 each agency funded pursuant to Section 8235 shall ~~serve~~ *give*  
19 *priority to* eligible four-year-old children prior to ~~serving~~ *enrolling*  
20 eligible three-year-old children. Each agency shall certify to the  
21 Superintendent that enrollment priority is being given to eligible  
22 four-year-old children.

23 ~~(c) For state preschool programs operating with funding that~~  
24 ~~was initially allocated in a prior fiscal year, at least half the children~~  
25 ~~enrolled at a preschool site shall be four-year-olds. Any exception~~  
26 ~~to this requirement shall be approved by the Superintendent. The~~  
27 ~~Superintendent shall inform the Secretary of Child Development~~  
28 ~~and Education of any exceptions that have been granted.~~

29 ~~(d)~~

30 (b) The following provisions apply to the award of new funding  
31 for the expansion of the *California* state preschool program that  
32 is appropriated by the Legislature for that purpose in any fiscal  
33 year:

34 (1) In an application for those expansion funds, an agency shall  
35 furnish the Superintendent with an estimate of the number of  
36 four-year-old and three-year-old children that it plans to serve in  
37 the following fiscal year with those expansion funds. The agency  
38 also shall furnish documentation that indicates the basis of those  
39 estimates.

(2) In awarding contracts for expansion pursuant to this subdivision, the Superintendent, after taking into account the geographic criteria established pursuant to Section 8279.3, and the headquarters preferences and eligibility criteria relating to fiscal or programmatic noncompliance established pursuant to Section 8261, shall give priority to applicant agencies that, in expending the expansion funds, will be serving the highest percentage of four-year-old children.

~~(3) (A) Agencies that receive funding for the expansion of a state preschool program shall enroll children in the following priority order:~~

~~(i) Neglected or abused children who are recipients of child protective services, or recipients who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency.~~

~~(ii) Four-year-old children who are eligible for the state preschool program.~~

~~(B) Otherwise, children shall be enrolled based on other statutory and regulatory priorities for the state preschool program.~~

~~(c) Nothing in this section shall be deemed to preclude a local educational agency from subcontracting with an appropriate public or private agency to operate a state preschool program and to apply for funds made available for the purposes of this section. If a school district chooses not to operate or subcontract for a state preschool program, the Superintendent shall work with the county office of education and other eligible agencies to explore possible opportunities in contracting or alternative subcontracting to provide a state preschool program.~~

~~(f)~~

~~(c) Nothing in this section shall prevent eligible children who are currently receiving services from continuing to receive those services in future years pursuant to this chapter.~~

*SEC. 6. Section 8236.1 is added to the Education Code, to read:*

*8236.1. Notwithstanding any other provision of law, the Superintendent may transfer funds appropriated on and after January 1, 2009, between center child care and development programs and the California state preschool program for the purpose of maximizing funds and ensuring that the needs of the service population are met.*

1     *SEC. 7. Section 8237 of the Education Code is amended to*  
2     *read:*

3     ~~8237. A state preschool program applicant or part-day~~  
4     *California state preschool program contracting agency has 120*  
5     *calendar days prior to the first day of the beginning of the new*  
6     *preschool year to certify eligibility and enroll families into their*  
7     *program. Subsequent to enrollment, a child shall be deemed eligible*  
8     *for a part-day California state preschool program for the*  
9     *remainder of the program year.*

10    *SEC. 8. Section 8238 of the Education Code is amended to*  
11    *read:*

12    ~~8238. As a condition of receipt of funds California state~~  
13    *preschool programs located in the attendance area of elementary*  
14    *schools ranked in deciles 1 to 3, inclusive, of the most recent base*  
15    *Academic Performance Index established by the Superintendent*  
16    *pursuant to Section 8238.4, a participating program 52056 shall*  
17    *include, but not be limited to, provide both of the following:*

18    (a) Age and developmentally appropriate activities for children  
19    in participating classrooms that are designed to facilitate their  
20    transition to kindergarten.

21    (b) Opportunities for parents and legal guardians to work with  
22    their children on interactive literacy activities. ~~For purposes of this~~  
23    ~~subdivision, “interactive literacy activities” means activities in~~  
24    ~~which parents or legal guardians actively participate in facilitating~~  
25    ~~the acquisition by their children of prereading skills through guided~~  
26    ~~activities such as shared reading, learning the alphabet, and basic~~  
27    ~~vocabulary development.~~

28    *SEC. 9. Section 8238.1 of the Education Code is amended to*  
29    *read:*

30    ~~8238.1. As a condition of receipt of funds pursuant to Section~~  
31    ~~8238.4, a participating program California state preschool~~  
32    *programs located in the attendance area of elementary schools*  
33    *ranked in deciles 1 to 3, inclusive, of the most recent base*  
34    *Academic Performance Index established by the Superintendent*  
35    *pursuant to Section 52056 shall coordinate the provision of all of*  
36    *the following:*

37    (a) Parenting education for parents and legal guardians of  
38    children in participating classrooms to support the development  
39    by their children of literacy skills. Parenting education shall  
40    include, but not be limited to, instruction in all of the following:

1 (1) Providing support for the educational growth and success  
2 of their children.

3 (2) Improving the parent-school communications and parental  
4 understanding of school structures and expectations.

5 (3) Becoming active partners with teachers in the education of  
6 their children.

7 (b) ~~Referrals~~—*Making referrals*, as necessary, to providers of  
8 instruction in adult education and English as a second language in  
9 order to improve the academic skills of parents and legal guardians  
10 of children in participating classrooms.

11 *SEC. 10. Section 8238.3 of the Education Code is amended to*  
12 *read:*

13 8238.3. ~~As a condition of receipt of funds pursuant to Section~~  
14 ~~8238.4, a participating program—California state preschool~~  
15 ~~programs located in the attendance area of elementary schools in~~  
16 ~~deciles 1 to 3, inclusive, based on the most recent base Academic~~  
17 ~~Performance Index established by the Superintendent pursuant to~~  
18 ~~Section 52056 shall provide staff development for teachers in~~  
19 ~~participating classrooms that includes, but is not limited to, all of~~  
20 ~~the following:~~

21 (a) Development of a pedagogical knowledge including, but  
22 not limited to, improved instructional strategies.

23 (b) Knowledge and application of developmentally appropriate  
24 assessments of the prereading skills of children in participating  
25 classrooms.

26 (c) Information on working with families, including the use of  
27 on site coaching, for guided practice in interactive literacy  
28 activities.

29 *SEC. 11. Section 8238.4 of the Education Code is repealed.*

30 ~~8238.4. Of funds appropriated in Schedule (1) of Item~~  
31 ~~6110-196-0001 of Section 2.00 of the Budget Act of 2006 (Ch.~~  
32 ~~48, Stats. 2006) for child development and preschool programs,~~  
33 ~~fifty million dollars (\$50,000,000) is available for expenditure by~~  
34 ~~the Superintendent as follows:~~

35 (a) ~~(1) Forty-five million dollars (\$45,000,000) to reimburse~~  
36 ~~participating programs on a per-child basis at the same rate that is~~  
37 ~~used for the state preschool program, as determined in the annual~~  
38 ~~Budget Act or other statute.~~

39 (2) ~~The funds described in paragraph (1) shall be assigned to~~  
40 ~~programs located in the attendance area of elementary schools in~~



deciles 1 to 3, inclusive, based on the 2005 base Academic Performance Index pursuant to Section 52056. Within elementary schools in deciles 1 to 3, inclusive, based on the 2005 base Academic Performance Index, preference shall be provided to underserved areas as described in subdivision (d) of Section 8279.3. If the funds described in paragraph (1) are offered under a new competitive bidding process after January 1, 2008, due to the termination, suspension, or relinquishment of an original contract award and in order to maintain an existing class, the department shall assign first priority to successful applicants that will maintain that class within the attendance area of the elementary school as originally granted.

(3) Notwithstanding any other provision of law, programs receiving funding in this section shall serve children who would attend kindergarten in the subsequent academic year. No child shall receive services from a program under this section for more than one year.

(4) Notwithstanding any other provision of law, a program receiving funding pursuant to this section may provide services to children in families above the income eligibility threshold, as described in Sections 8263 and 8263.1, if the number of contracted slots exceed the number of eligible children. No more than 20 percent of contracted slots, calculated throughout the participating program's entire contract, may be filled by children in families above the income eligibility threshold.

(5) The department shall report to the Department of Finance and the Legislature at budget hearings the number of children who are being served with the funds described in paragraph (1). The report shall also include the number of children served above the income eligibility threshold and the age of all children served.

(b) (1) Five million dollars (\$5,000,000) to be distributed to each participating class at a rate of two thousand five hundred dollars (\$2,500) per class per school year. Funds received pursuant to this subdivision may be used for all of the following purposes:

(A) Compensation and support costs for program coordinators as described in Section 8238.2.

(B) Staff development pursuant to Section 8238.3.

(C) Family literacy services.

(D) Instructional materials, including consumables.

~~(2) In the event that the total amount described in paragraph (1) is insufficient to fund all of the participating class at the per classroom rate described in that paragraph, the class rate shall be prorated accordingly.~~

~~(e) The appropriation of funds for purposes of this section beyond the amounts described in this section shall be pursuant to the annual Budget Act or other statute.~~

*SEC. 12. Section 8238.4 is added to the Education Code, to read:*

*8238.4. (a) When funds appropriated for the California state preschool programs that are located in the attendance area of elementary schools ranked in deciles 1 to 3, inclusive, of the most recent base Academic Performance Index established by the Superintendent pursuant to Section 52056, are offered under a new competitive bidding process after January 1, 2008, due to the termination, suspension, or relinquishment of an original contract award, the department shall assign first priority to successful applicants that agree to maintain that class within the attendance area of the elementary school as originally granted.*

*(b) The State Department of Education shall report to the Department of Finance and the Legislature the number of children who are being served in California state preschool programs. The report shall also include the number of children served above the income eligibility threshold.*

*(c) (1) Upon appropriation of funds in the annual Budget Act or another statute, California state preschool programs located in the attendance area of elementary schools ranked in deciles 1 to 3, inclusive, of the most recent base Academic Performance Index established by the Superintendent pursuant to Section 52056, shall receive up to five million dollars (\$5,000,000) to be distributed to each participating class at a rate of two thousand five hundred dollars (\$2,500) per class per school year. Funds received pursuant to this subdivision may be used for all of the purposes described in Sections 8238.1 to 8238.3, inclusive.*

*(2) If the total amount available for the purposes of paragraph (1) is insufficient to fund all of the participating classes at the per-class rate described in that paragraph, the Superintendent shall set criteria for the distribution of the funds.*

*SEC. 13. Section 8238.5 of the Education Code is amended to read:*

1 8238.5. Subject to the availability of funds for purposes of this  
2 section, as described in subdivision (c) of 8238.4, the  
3 Superintendent shall conduct an evaluation of the effectiveness of  
4 ~~prekindergarten and family literacy programs~~ *California state*  
5 *preschool programs with family literacy components* established  
6 pursuant to this article. To the extent feasible, the evaluation shall  
7 do both of the following:

8 (a) Rely on quantifiable measures of academic achievement of  
9 participating children, including, but not limited to, performance  
10 on the Standardized Testing and Reporting Program test and the  
11 English language development test administered in grade 3.

12 (b) Estimate the costs and benefits of the programs.

13 *SEC. 14. Section 8239 of the Education Code is repealed.*

14 ~~8239. The Superintendent shall encourage state preschool~~  
15 ~~program applicants or contracting agencies to offer full-day~~  
16 ~~services through a combination of part-day preschool slots and~~  
17 ~~part-day general child care and development programs. In order~~  
18 ~~to facilitate a full-day of services, all of the following shall apply:~~

19 ~~(a) Part-day preschool programs provided pursuant to this~~  
20 ~~section shall operate between 175 and 180 days.~~

21 ~~(b) Part-day general child care and development programs~~  
22 ~~provided pursuant to this section may operate a minimum of 246~~  
23 ~~days per year unless the child development contract specified a~~  
24 ~~lower minimum days of operation. Part-day general child care and~~  
25 ~~development programs may operate a full-day for the remainder~~  
26 ~~of the year after the completion of the preschool program.~~

27 ~~(c) Full-day services provided under this section shall be~~  
28 ~~reimbursed at no more than the standard reimbursement rate with~~  
29 ~~adjustment factors.~~

30 ~~(d) Notwithstanding any provision of law, to be eligible for~~  
31 ~~part-day child care, a child who is enrolled in a preschool program~~  
32 ~~shall be required to meet the eligibility requirements specified in~~  
33 ~~paragraph (4) of subdivision (a) of Section 8238.4 and the~~  
34 ~~requirements pursuant to Sections 8263 and 8263.1 at the time of~~  
35 ~~enrollment in a preschool. Subsequent to enrollment, a child shall~~  
36 ~~be deemed eligible for part-day care as long as the child is enrolled~~  
37 ~~in a preschool program.~~

38 *SEC. 15. Section 8239 is added to the Education Code, to read:*



1 services to children at two or more sites, including through more  
2 than one contract or subcontract funded pursuant to this chapter,  
3 shall employ a program director.

4 (2) ~~Programs providing direct services to children, for the~~  
5 ~~purposes of this section, are general child care and development~~  
6 ~~programs pursuant to Article 8 (commencing with Section 8240),~~  
7 ~~migrant child care and development programs pursuant to Article~~  
8 ~~6 (commencing with Section 8230), campus child care and~~  
9 ~~development programs pursuant to Article 4 (commencing with~~  
10 ~~Section 8225), state preschool programs pursuant to Article 7~~  
11 ~~(commencing with Section 8235), child care and development~~  
12 ~~services for children with special needs programs pursuant to~~  
13 ~~Article 9 (commencing with Section 8250), infant care and~~  
14 ~~development services programs pursuant to Article 17~~  
15 ~~(commencing with Section 8390), and any of these programs~~  
16 ~~operated through family child care homes.~~

17 (b) (1) For purposes of this section, the following definitions  
18 shall apply:

19 (A) ~~“Administrative responsibility” means awareness of the~~  
20 ~~financial and business circumstances of the program, and, in~~  
21 ~~appropriate cases, supervision of administrative and support~~  
22 ~~personnel and the knowledge and authority to direct or modify~~  
23 ~~administrative practices and procedures to ensure compliance to~~  
24 ~~administrative and financial standards imposed by law.~~

25 (B) ~~“Program director” means a person who, regardless of his~~  
26 ~~or her title, has programmatic and administrative responsibility~~  
27 ~~for a child care and development program that provides direct~~  
28 ~~services to children at two or more sites.~~

29 (C) ~~“Programmatic responsibility” means overall supervision~~  
30 ~~of curriculum and instructional staff, including instructional aides,~~  
31 ~~and the knowledge and authority to direct or modify program~~  
32 ~~practices and procedures to ensure compliance to applicable quality~~  
33 ~~and health and safety standards imposed by law.~~

34 (2) ~~Administrative and programmatic responsibility also includes~~  
35 ~~the responsibility to act as the representative for the child~~  
36 ~~development program to the State Department of Education. With~~  
37 ~~respect to programs operated through family child care homes,~~  
38 ~~administrative and programmatic responsibility includes ensuring~~  
39 ~~that quality services are provided in the family child care homes.~~

~~(e) The program director also may serve as the site supervisor at one of the sites, provided that he or she both fulfills the duties of a “day care center director,” as set forth in Section 101315 of Title 22 of the California Code of Regulations, and meets the qualifications for a site supervisor as set forth in subdivision (aa) of Section 8208.~~

~~(d) The Superintendent of Public Instruction may waive the qualifications for program director described in Sections 8360.1 and 8360.3 upon a finding of one of the following circumstances:~~

~~(1) The applicant is making satisfactory progress toward securing a permit issued by the Commission on Teacher Credentialing authorizing supervision of a child care and development program operating in two or more sites or fulfilling the qualifications for program directors in severely handicapped programs, as specified in Section 8360.3.~~

~~(2) The place of employment is so remote from institutions offering the necessary coursework as to make continuing education impracticable and the contractor has made a diligent search but has been unable to hire a more qualified applicant.~~

~~(e) The Superintendent of Public Instruction, upon good cause, may by rule identify and apply grounds in addition to those specified in subdivision (d) for granting a waiver of the qualifications for program director.~~

*SEC. 19. Section 8244 is added to the Education Code, to read:*

*8244. (a) Any entity operating center child care and development programs funded pursuant to this chapter that provide direct services to children at two or more sites, including the use of more than one contract or subcontract funded pursuant to this chapter, shall employ a program director.*

*(b) Programs providing direct services to children, for the purposes of this section, are center child care and development programs pursuant to this article, migrant child care and development programs pursuant to Article 6 (commencing with Section 8230), California state preschool programs pursuant to Article 7 (commencing with Section 8235), child care and development services for children with exceptional needs programs pursuant to Article 9 (commencing with Section 8250), infant care and development services programs pursuant to Article 17 (commencing with Section 8390), and any of these programs operated through family child care homes.*

1     *SEC. 20. Section 8250.5 of the Education Code is amended to*  
2     *read:*

3     8250.5. A contractor providing services pursuant to a ~~general~~  
4     ~~center~~ child care contract, a campus child care contract, a migrant  
5     child care contract, or an alternative payment child care contract  
6     is subject to the requirements of the Americans with Disabilities  
7     Act (42 U.S.C. Sec. 12101; et seq.).

8     *SEC. 21. Section 8264.5 of the Education Code is amended to*  
9     *read:*

10    8264.5. The Superintendent of Public Instruction may waive  
11    or modify child development requirements in order to enable child  
12    development programs to serve combinations of eligible children  
13    in areas of low population. The child development programs for  
14    which the ~~superintendent~~ Superintendent may grant waivers shall  
15    include, but need not be limited to, *California* state preschool  
16    ~~full-day~~ programs, child care provided by the California School  
17    Age Families Education Program (Article 7.1 (commencing with  
18    Section 54740) of Chapter 9 of Part 29), infant care and  
19    development services, migrant child care and development  
20    programs, ~~campus and center~~ child care and development  
21    programs, ~~and general child care and development programs.~~

22    *SEC. 22. Section 8266.1 of the Education Code is amended to*  
23    *read:*

24    8266.1. Commencing with the 1995–96 fiscal year and each  
25    fiscal year thereafter, for the purposes of this chapter,  
26    reimbursement rates shall be adjusted by the following  
27    reimbursement factors for child care and development programs  
28    with a standard reimbursement rate, but shall not apply to the  
29    Resource and Referral Programs set forth in Article 2 (commencing  
30    with Section 8210), the Alternative Payment Programs set forth  
31    in Article 3 (commencing with Section 8220), the ~~State Preschool~~  
32    ~~Programs~~ *California state preschool programs* set forth in Article  
33    7 (commencing with Section 8235), the School-age Community  
34    Child Care Services programs set forth in Article 22 (commencing  
35    with Section 8460), or to the school-age parent and infant  
36    development programs:

37    (a) ~~For child care and development program providers serving~~  
38    ~~children for less than four hours per day, the reimbursement factor~~  
39    ~~is 55~~ *California state preschool programs serving children for the*  
40    ~~minimum of three hours and less than four hours per day, the~~

1 *reimbursement factor is 62 percent of the standard reimbursement*  
2 *rate.*

3 (b) For child care and development program providers serving  
4 children for not less than four hours per day, and less than six and  
5 one-half hours per day, the reimbursement factor is 75 percent of  
6 the standard reimbursement rate. For providers operating under  
7 the At Risk Child Care Program set forth in Article 15.5  
8 (commencing with Section 8350) and serving children for not less  
9 than four hours per day, and less than seven hours per day, the  
10 reimbursement factor is 75 percent of the standard reimbursement  
11 rate.

12 (c) For child care and development program providers serving  
13 children for not less than six and one-half hours per day, and less  
14 than 10 and one-half hours per day, the reimbursement factor is  
15 100 percent of the standard reimbursement rate. For providers  
16 operating under the At Risk Child Care Program set forth in Article  
17 15.5 (commencing with Section 8350) and serving children for  
18 not less than seven hours per day, and less than 10 hours per day,  
19 the reimbursement factor is 100 percent of the standard  
20 reimbursement rate.

21 (d) For child care and development program providers serving  
22 children for 10 and one-half hours or more per day, the  
23 reimbursement factor is 118 percent of the standard reimbursement  
24 rate.

25 *SEC. 23. This act shall become operative on July 1, 2009.*

26 *SEC. 24. This act shall become operative only if Senate Bill*  
27 *1629 of the 2007–08 Regular Session of the Legislature is enacted*  
28 *and becomes effective on or before January 1, 2009.*